

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 18-23538-rdd

4 - - - - - x

5 In the Matter of:

6

7 SEARS HOLDINGS CORPORATION,

8

9 Debtor.

10 - - - - - x

11

12 United States Bankruptcy Court

13 300 Quarropas Street, Room 248

14 White Plains, NY 10601

15

16 November 1, 2018

17 2:04 PM

18

19

20

21 B E F O R E :

22 HON ROBERT D. DRAIN

23 U.S. BANKRUPTCY JUDGE

24

25 ECRO: JUSTIN

1 HEARING re notice of Agenda of Matters Scheduled for Hearing
2 on November 1, 2018 at 2:00 p.m.
3 Motion to Approve / Motion of Debtors Requesting Entry of an
4 Order (I) Approving Debtors Proposed Form of Adequate
5 Assurance of Payment to Utility Providers, (II) Establishing
6 Procedures for Determining Adequate Assurance of Payment for
7 Future Utility Services, and (III) Prohibiting Utility
8 Providers from Altering, Refusing, or Discontinuing Utility
9 Service

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25 Transcribed by: Sonya Ledanski Hyde

1 A P P E A R A N C E S :

2

3 AKIN GUMP STRAUSS HAUER & FELD LLP

4 Attorneys for the Creditors Committee

5 One Bryant Park

6 Bank of America Tower

7 New York, NY 10036

8

9 BY: PHILIP C. DUBLIN (TELEPHONICALLY)

10 SARA L. BRAUNER (TELEPHONICALLY)

11

12 SKADDEN, ARPS, SLADE, MEAGHER & FLOM LLP

13 Attorneys for the DIP ABL Agents

14 4 Times Square

15 New York, NY 10036

16

17 BY: SHANA A. ELBERG (TELEPHONICALLY)

18

19 SEYFARTH SHAW LLP

20 Attorneys for Wilmington Trust National Association

21 620 Eighth Avenue

22 New York, NY 10018

23

24 BY: EDWARD M. FOX (TELEPHONICALLY)

25

1 WEIL, GOTSHAL & MANGES LLP

2 Attorneys for the Debtor

3 767 Fifth Avenue

4 New York, NY 10153

5

6 BY: SUNNY SINGH (TELEPHONICALLY)

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1 ALSO PRESENT TELEPHONICALLY:

2

3 NEGISA BALLUKU

4 PATRICIA CHEN

5 BRYAN M. CIMALA

6 JONATHAN COVIN

7 ANDREW DIAZ

8 JASON DIBATTISTA

9 TED A. DILLMAN

10 ROBERT E. FITZGERALD

11 SCOTT FLEISCHER

12 KIMBERLY B. GIANIS

13 TAYLOR B. HARRISON

14 TERESA LII

15 MICHELLE M. MCGREAL

16 MICHAEL MITTELMAN

17 THOMAS ONDER

18 LILLIAN A. RIZZO

19 CHRISTOPHER SAFAYA

20 JASON B. SANJANA

21 JOSH F. SAUL

22 CHRIS STAUBLE

23 MY CHI TO

24

25

1 P R O C E E D I N G S

2 THE COURT: Okay. Good afternoon. In re Sears
3 Holding Corporation, et al?

4 MR. SINGH: Good afternoon, Your Honor. Sunny
5 Singh, Weil Gotschal, on behalf of the Debtors.

6 THE COURT: Good afternoon.

7 MR. SINGH: Your Honor, the only motion on for
8 today's calendar is the Debtors' utilities motion. And
9 before I start, thank you, Your Honor, for allowing me to
10 appear telephonically.

11 The motion was filed on the 18th of October and
12 served on all of the relevant utility providers. We did
13 file a affidavit of service at ECF 261. Your Honor, pretty
14 standard relief. We had proposed a two-week deposit to be
15 retained or separately segregated -- excuse me -- with the
16 Debtors allocable to the utility providers.

17 We did receive some informal comments, no formal
18 objections. We resolved those comments through certain
19 modifications and adjustments to the schedule.

20 Your Honor, we did file an amended order last
21 night, and the only change in there, really, is to make
22 clear, at the request of -- at our primary utility service
23 provider, that we will continue and have the authority to
24 continue to pay their fees in the ordinary course
25 (indiscernible). Your Honor, they handle all of the

1 company's utility billing, et cetera, and services. So, you
2 know, it's important, obviously, that they get paid. We
3 believe it's in the ordinary course, but they were looking
4 for some covered language, so we did include it. And that's
5 the only change in the revision.

6 The other change, Your Honor, in the schedule is
7 the aggregate dollar amount. There was just an incorrect
8 calculation in the schedule, which said \$10.1 million. The
9 actual number is closer to \$9.3 million. We've made that
10 adjustment in the schedule. And that number was correctly
11 reflected in the motion filed with the Court, and so we've
12 corrected that as well. There's been no other changes, Your
13 Honor.

14 THE COURT: So, there are no changes to the
15 individual amounts for each utility?

16 MR. SINGH: That's right, Judge. There's no
17 changes. There was just -- a number of utilities have LCs
18 or deposits, and they were in -- to the extent they were in
19 excess of the prepetition amount owed, we're deducting them
20 from the two-week bill.

21 THE COURT: Right.

22 MR. SINGH: And a number of them were showing up
23 as negatives in the filed version of the schedule, and so
24 the amount just got screwed up with that negative
25 calculation.

1 THE COURT: Okay. But the deductions was already
2 reflected in the procedures, in the --

3 MR. SINGH: That's right.

4 THE COURT: Right.

5 MR. SINGH: That's right, Judge. Yep.

6 THE COURT: Okay. Does anyone have anything to
7 say on this motion? Okay. I didn't expect anything because
8 there were no objections to it.

9 I'll grant the motion. I had a couple of changes
10 to the procedures, in light of the order, which I don't
11 think -- I can just harmonize it with the order. Namely,
12 Paragraph 11 has a material address change in it, and I just
13 added a reference to Paragraph 11 and Paragraph 6 of the
14 order.

15 And I also, in Paragraph 7 of the procedures,
16 added the phrase at the end, "subject to the utility
17 provider's right to seek emergency relief under the case
18 management order."

19 So, with those changes or clarifications, I will
20 grant the motion and enter the proposed order that will have
21 the procedures attached. So, you can email those to the
22 Court. You should email the procedures in Word so that I
23 can make those changes.

24 MR. SINGH: Absolutely, Your Honor. We'll take
25 care of that. Thank you.

1 THE COURT: Okay. But the procedures are
2 consistent with procedures that I and my colleagues have
3 approved in many cases and are, importantly, consistent
4 with, I think, the controlling opinion in this area by Judge
5 Seibel in the A&P case, which is referenced in the motion.
6 So, it's granted.

7 MR. SINGH: Thank you, Your Honor. Your Honor,
8 that's it for today's agenda. Just two housekeeping
9 matters, if I could just bring them to your attention?

10 THE COURT: Okay.

11 MR. SINGH: Your Honor, we did file two additional
12 entities for Chapter 11 after the initial first hearing --

13 THE COURT: Right.

14 MR. SINGH: And that was SHC Licensed Business
15 LLC, and SHC Promotions LLC. They actually stand out on the
16 redline in the footnote.

17 THE COURT: Right.

18 MR. SINGH: Your Honor, we've filed a joint
19 administration motion and an all orders motion basically
20 applying the orders the Court has entered as to those
21 entities on the docket, and we were hoping that we can
22 submit those to chambers for entry, as they are just
23 procedural in nature.

24 THE COURT: Right. That's fine.

25 MR. SINGH: Okay. Your Honor, we will submit

1 those to you. And we do expect, as I think we've mentioned
2 before, Your Honor, there may be potentially additional
3 debtor entities that we may need to file, and if we do, if
4 it's okay with Your Honor, we'll follow the same process.

5 THE COURT: Okay. Very well. Thank you.

6 MR. SINGH: Thank you, Your Honor. That's it for
7 today's agenda on Sears.

8 THE COURT: Okay. Thanks.

9 (Whereupon these proceedings were concluded at
10 2:10 PM)

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X

RULINGS

Page Line

Utility Motion Granted 8 9

C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.

Sonya
Ledanski Hyde

Digitally signed by Sonya
Ledanski Hyde
DN: cn=Sonya Ledanski Hyde, o,
ou, email=digital1@veritext.com,
c=US
Date: 2018.11.07 14:14:42 -05'00'

Sonya Ledanski Hyde

Veritext Legal Solutions

330 Old Country Road

Suite 300

Mineola, NY 11501

Date: